

CIVIL COVER SHEET

County in which action arose: Wayne

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Sheryl Hubbell

(b) County of Residence of First Listed Plaintiff Wayne
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Raymond Guzell
31555 W 14 Mile Rd. Ste 320
Farmington Hills, MI 48334-1288

DEFENDANTS

FedEx Smart Post, Inc. a/k/a FedEx Ground Package System, Inc.

County of Residence of First Listed Defendant Delaware
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Jessica Sproutsoff
Schiiff Hardin LLP
350 South Main, Suite 210, Ann Arbor, MI 481004 734-222-1518

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C 1332(a) and 1441(a)
Brief description of cause:
Plaintiff alleges that her former employer, Defendant, discriminated against base on her gender

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 180,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Steeh

DOCKET NUMBER 14-13897

DATE

SIGNATURE OF ATTORNEY OF RECORD

August 3, 2016

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERYL HUBBELL,

Plaintiff,

Case No. 2:16-cv-12859

v.

FEDEX SMARTPOST, INC.,

Defendant.

Raymond Guzall, III, P.C.
Raymond Guzall, III (P60980)
Omar S. Najor (P58066)
31555 W. Fourteen Mile Road, Ste
302
Farmington Hills, MI 48334
(248) 702-6122
(248)-702-6124
Attorneys for Plaintiff

Jessica A. Sprovtsoff (P70218)
Robert J. Wierenga (P59785)
SCHIFF HARDIN LLP
350 S. Main Street
Suite 210
Ann Arbor, MI 48104
(734) 222-1518
(734) 222-1501 Fax
Attorneys for Defendant

NOTICE OF REMOVAL

Defendant FedEx Ground Package System, Inc. (“FedEx Ground”)¹,
contemporaneously with the filing of this Notice, hereby effects the removal of the
below referenced action from the Circuit Court for the County of Wayne, State of

¹ FedEx SmartPost, Inc. ceased to exist as an independent corporation on September 1, 2015, when it was merged into its parent corporation, FedEx Ground Package System, Inc. FedEx Ground is the proper defendant as the successor by merger. Defendant will work with Plaintiff’s counsel to correct the caption in this matter and the related case – *Hubbell v. FedEx SmartPost, Inc.*, Case No. 2:14-cv-13897.

Michigan to the United States District Court for the Eastern District of Michigan.

The removal is based on 28 U.S.C. Sections 1332(a) (diversity of citizenship), and 1441(a). In support of its Notice of Removal of Civil Action, Defendant FedEx Ground states:

PLEADINGS, PROCESS AND ORDERS

1. FedEx Ground is the proper defendant in the above-entitled action.
2. The above-entitled action was commenced in Circuit Court for the County of Wayne, State of Michigan, and is now pending in that state Court. Plaintiff complaint contains three counts – gender discrimination, retaliation and hostile work environment.
3. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon Defendant FedEx Ground are attached hereto as Exhibit A.

**REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT
MATTER JURISDICTION PURSUANT TO 28 U.S.C. § 1332(a) AND
1441.**

4. The claims alleged in the Complaint are all removable under 28 U.S.C. § 1332(a) (diversity of citizenship) because the parties are citizens of different states and the amount in controversy is greater than \$75,000.

A. Diversity of Citizenship is Established.

5. Defendant FedEx Ground is now, and was at the time the state action was commenced, a Delaware corporation with its principal place of business in Pennsylvania. FedEx Ground is a corporate citizen of both Delaware and Pennsylvania.

6. According to Plaintiff's allegations, she is a citizen of Michigan.

B. The matter in controversy, exclusive of interest or cost, exceeds the sum or value of \$75,000.00.

7. In this lawsuit, Plaintiff seeks damages, *inter alia*, with respect to alleged gender discrimination, retaliation and hostile work environment. (Complaint, ¶¶ 30, 4-43, 45-58, 63, 81, 85).

8. In response to this Court's summary judgment order in *Hubbell v. FedEx SmartPost, Inc.*, Case No. 2:14-CV-13897, Plaintiff's counsel, Raymond Guzall, communicated with in-house counsel for FedEx Ground, Barak Babcock, demanding an amount in excess of the jurisdictional requirement (\$75,000.00) to settle all of Plaintiff's claims. *See* Exhibit B – 6/21/16 Email from Raymond Guzall to Barak Babcock. Plaintiff's email communication qualifies as "other paper" under 28 U.S.C. § 1446(c)(3)(A).

9. Here, complete diversity is established because Plaintiff and the Defendant are citizens of different states and the amount in controversy exceeds \$75,000.00.

TIMELINESS OF REMOVAL

10. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) and § 1446(c). This Notice of Removal is being filed within thirty days of Defendant FedEx Ground being provided with a copy of the Complaint (July 15, 2016). *See* Exhibit C – 7/15/16 email (without attached copy of the Complaint included) from Raymond Guzall to Barak Babcock.

JURISIDCITION/VENUE

11. This District Court territorial jurisdiction embraces the place where the state court action is pending. Venue is proper in this District Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a), § 100(a)(1).

12. No previous application has been made for the relief requested herein.

NOTICE TO STATE COURT AND PLAINTIFF

13. Contemporaneously with the filing of this Notice of Removal in the United States District Court for the Eastern District of Michigan, written notice of such filing will be provided by the undersigned to Plaintiff’s counsel of record, Raymond Guzall, III.

14. In addition, a copy of the Notice of Removal will be filed with the Clerk of the Circuit Court for the County of Wayne, State of Michigan.

WHEREFORE, having provided notice as required by law, the above-entitled action should hereby be removed from the Circuit Court for the County of Wayne, State of Michigan to this District Court.

Dated: August 3, 2016

Respectfully submitted,

SCHIFF HARDIN LLP

/s/ Jessica A. Sprovtsoff
Jessica A. Sprovtsoff (P70218)
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Ann Arbor, MI 48104
734-222-1518 (Phone)
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Attorneys for Defendant

Dated: August 3, 2016

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2016, I filed the foregoing with the Clerk of court via CM/ECF and will serve the foregoing via e-mail and U.S. mail on counsel of record.

s/Jessica A. Sprovtsoff
Jessica A. Sprovtsoff